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**SUPPLEMENTAL**

**TESTIMONY**

**OF**

**ADAM J. LEBRECHT**

**DOCKET NOS. T-03889A-02-0796**

**T-04125A-02-0796**

**UTILITIES DIVISION STAFF**

**Complainant**

**v.**

**LIVEWIRENET OF ARIZONA, LLC; THE  
PHONE COMPANY MANAGEMENT GROUP,  
LLC; THE PHONE COMPANY OF ARIZONA  
JOINT VENTURE D/B/A THE PHONE  
COMPANY OF ARIZONA; ON SYSTEMS  
TECHNOLOGY, LLC AND ITS PRINCIPLES,  
TIM WETHERALD, FRANK TRICAMO  
AND DAVID STRAFFORD; THE PHONE  
COMPANY OF ARIZONA, LLP AND ITS  
MEMBERS**

**OCTOBER 8, 2003**



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**EXECUTIVE SUMMARY**  
**THE PHONE COMPANY OF ARIZONA**  
**DOCKET NOS. T-03889A-02-0796 AND T-04125A-02-0796**

On February 25, 2003, Judge Dion issued a procedural order requiring Tim Wetherald, The Phone Company of Arizona and its subsidiaries to notify customers of possible disconnections, procure a performance bond and answer Staff's data requests. Because this did not happen, Staff finds these parties in contempt of the ACC. Staff also feels that as the principle decision maker, Tim Wetherald should be personally responsible for the payment of any judgments and be banned from doing future business in the telecommunications industry in Arizona.

**INTRODUCTION**

**Q. Please state your name, occupation, and business address.**

A. My name is Adam Lebrecht. I am an Executive Consultant I employed by the Arizona Corporation Commission (“ACC” or “Commission”) in the Utilities Division. My business address is 1200 West Washington Street, Phoenix, Arizona 85007.

**Q. Briefly describe your responsibilities as an Executive Consultant.**

A. In my capacity as an Executive Consultant, I provide recommendations to the Commission concerning the approval and/or denial of Telecom CC&Ns applications, sale of assets applications and other telecom applications and filings.

**Q. Please describe your educational background and professional experience.**

A. In 1997, I graduated from Arizona State University, receiving a Bachelor of Science degree in Geography with a specialization in Cultural Studies. In 1999, I was employed by the Commission as a Public Utilities Consumer Analyst I in the Consumer Service’s Section. I was promoted to an Executive Consultant I in December of 2002. Since that time, I have provided the Commission with over 50 recommendations concerning the approval, denial and/or cancellation of Telecom CC&N applications, sale of assets applications and other telecom issues and filings.

**Q. What is the purpose of your testimony in this case?**

A. I will address Staff’s findings that The Phone Company Management Group (“PCMG”) is in contempt of the Arizona Corporation Commission and that Tim Wetherald, as principle decision maker of PCMG and its subsidiaries should be personally responsible for any penalties and/or judgments against him and the companies operated by PCMG.

**COUNT I: TIM WETHERALD, THE PHONE COMPANY MANAGEMENT GROUP  
AND ITS SUBSIDIARIES ARE IN CONTEMPT OF THE ARIZONA CORPORATION  
COMMISSION.**

**Q. Has LiveWireNet notified customers of possible disruptions and/or disconnections of service?**

A. No. On February 25, 2003 ALJ Dion issued a procedural order to LiveWireNet, aka The Phone Company Management Group ("PCMG"). This procedural order specifically ordered LiveWireNet to notify its customers that an interruption or termination of their service was possible. On February 27, 2003, LiveWireNet informed Commission Staff that no customer notification letters concerning the interruption or disconnection of service would be sent. A procedural order dated March 3, 2003 had to be issued which ordered Commission Staff to notify LiveWireNet's customers of the possible interruption and/or disconnections.

**Q. Has The Phone Company of Arizona procured a performance bond?**

A. No. In decision Number 63382, PCMG was informed that a performance bond of \$100,000 would need to be procured or PCMG's CC&N would be void. A bond was procured, however it expired on February 19, 2003. PCMG was informed, by Staff, on May 15, 2003 that a new bond would need to be procured. To this date, Staff has not received notice that any bond has been procured.

**Q. Has Tim Wetherald responded to all of Staff's data requests?**

A. No. On April 11, 2003 a Procedural Order was issued which required PCMG and Tim Wetherald to respond to data requests sent by ACC Staff concerning this proceeding. On

1 April 29, 2003 Wetherald responded to this Procedural Order by informing the  
2 Commission that no responses would be given to Staff's data requests.

3  
4 It is for these reasons, PCMG's and Wetherald's refusal to comply with the procedural  
5 order ordering them to send customer notification letters informing of possible  
6 interruption and/or disconnection of service, refusal to procure a bond and refusal to  
7 answer data requests, as required by the April 11, 2003 procedural order, that Staff feels  
8 PCMG is in contempt of the Arizona Corporation Commission.

9  
10 **TIM WETHERALD IS THE PRINCIPLE DECISION MAKER FOR ON SYSTEMS AND**  
11 **THE COMPANIES IT CONTROLS.**

12  
13 **Q. WHAT IS THE RELATIONSHIP BETWEEN ON SYSTEMS, LIVEWIRENET,**  
14 **PCMG AND THE PHONE COMPANY OF ARIZONA?**

15 A. Previously, Staff had determined through pending dockets and research that On Systems  
16 either managed and/or owned in either full or part, LiveWireNet, PCMG d/b/a The Phone  
17 Company and the Phone Company of Arizona. Staff has received information from the  
18 United States Securities and Exchange Commission ("SEC")<sup>1</sup> showing that On Systems is  
19 a limited liability company formed in 2000 by Tim Wetherald ("Wetherald").

20  
21 **Q. What tactics did Wetherald employ when looking for investors in On Systems?**

22 A. The SEC reports that in finding investors for his company(s), Wetherald, through  
23 salesmen at the unregulated broker dealer of Defendant Telecom Advisory, employed  
24 several tactics which were neither honest or in the interests of the investors<sup>2</sup>. These tactics  
25 included providing unrealistic projections relating to rates of return, failure to disclose the

<sup>1</sup> Litigation Release No. 17977/ February 10, 2003 P. 1

<sup>2</sup> United States District Court Southern District Of Florida Case No. 03-608175 P. 2

1 fact that invested funds were used to pay commissions and "management fees," failing to  
2 disclose interlocking relationships of the companies controlled by On Systems, failure to  
3 disclose that several of the non-voting units would be sold before the voting units had  
4 recouped original investment, failing to disclose Wetherald's negative regulatory history  
5 and failing to disclose that none of the phone companies established were properly  
6 licensed to operate in the states they were purported to serve in.

7  
8 **Q. Have any other states filed judgments against Wetherald?**

9 A. Yes. In 1991, the Oregon Attorney General enjoined Wetherald from engaging in any  
10 commerce relating to the provision of telecommunications services. In 1994, a similar  
11 injunction, along with a consent decree, was issued from the State of Washington.<sup>3</sup>  
12

13 In short, investors were lied to. The above misrepresentations and/or omissions of fact led  
14 investors to believe that Wetherald had a vast and positive expertise in the  
15 telecommunications industry<sup>4</sup>. The reality is that through Wetherald, On Systems is a  
16 company which misrepresented itself to both investors and customers. The result has been  
17 lawsuits filed by investors, complaints filed by customers and formal complaints filed by  
18 regulatory bodies.  
19

20 **Q. What conclusions do you draw concerning On Systems and Tim Wetherald?**

21 A. Wetherald, as the corporate president, part owner and control person of On Systems made  
22 the decisions of OnSystem's and its affiliates: PCMG, The Phone Company of Arizona,  
23 etc. Because of Wetherald's status as the "mastermind" of OnSystem's et al. operations,  
24 Staff believes he should be personally responsible for the payment of \$1,685,000 <sup>5</sup>and

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<sup>3</sup> United States District Court Southern District Of Florida Case No. 03-608175 P. 3

<sup>4</sup> United States District Court Southern District of Florida Case No. 03-608175 P.5

<sup>5</sup> Testimony of John Bostwick, March 31, 2003 P. 7



1 permanently enjoined from doing business related to the provision of telecommunications  
2 services in Arizona.

3  
4 **Q. Does Staff believe Mr. Wetherald and the principles at On Systems Technology have**  
5 **conducted the affairs of PCMG and the Phone Company of Arizona as their “alter**  
6 **ego?”**

7 A. Yes, Mr. Wetherald and the principles of OnSystems Technologies have used their  
8 business structure to escape personal liability for their fundamental and illegal acts.

9  
10 **Q. Does this conclude your testimony?**

11 A. Yes, it does.

Original and 21 copies of the foregoing filed  
this 8th day of October, 2003, with:

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